

REMARKS

In the Office Action, claim 6-12 and 16-22 are rejected under 35 U.S.C. § 112, second paragraph; claim 1, 10 and 20-22 are provisionally rejected under 35 U.S.C. § 101; and claims 1, 6-12, and 16-22 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting. Claim 6, 7, 8, 10, 11, 12, 16, 17 and 18 have been amended; and claims 20-22 have been canceled without prejudice or disclaimer. Applicants believe that the rejections have been overcome as discussed in further detail below.

With respect to the rejection of claim 6-12 and 16-22 under 35 U.S.C. § 112, second paragraph, claims 6, 7, 8, 9, 10, 11, 12, 16, 17 and 18 have been amended and further claims 20-22 have been canceled without prejudice or disclaimer as previously discussed. The amendments were made for clarification purposes and further should not be deemed to narrow and/or disclaim any claimed subject matter in view of same. Therefore, Applicants believe that the rejection pursuant to 35 U.S.C. § 112, second paragraph be withdrawn.

In the Office Action, claims 1, 10 and 20-22 are provisionally rejected under 35 U.S.C. § 101. More specifically, claims 1 and 20-22 are provisionally rejected in view of claims 1 and 3 as well as claims 22-23 of copending application number 09/936,489; and claims 1 and 10 are provisionally rejected in view of claim 6 and 18 of copending application no. 09/936,542. Applicants believe that the statutory double patenting rejections are improper.

At the outset, the same claims (e.g., claims 1, 10 and 20-22) are subsequently rejected against the same claims of the same copending applications under the judicially created doctrine of obviousness-type double patenting. Indeed, the Patent Office even admits that the alleged, conflicting claims are not identical. Therefore, Applicants believe that the statutory double patenting rejections should be withdrawn at least for these reasons. Moreover, claims 20-22 of the present case have been canceled without prejudice or disclaimer as discussed above and therefore the statutory double patenting rejections should be rendered moot and further withdrawn for this reasons.

As previously discussed, claims 1, 6-12 and 16-22 have been rejected under the judicially created doctrine of obviousness-type double patenting. Applicants are submitting herewith a Terminal Disclaimer to address these rejections as discussed above. Moreover, claims 20-22 have been canceled without prejudice or disclaimer. Therefore, Applicants believe that the

provisional rejections under the judicially created doctrine of obviousness type double patenting should be withdrawn.

For the foregoing reasons, Applicants respectfully submit that the present application is in condition for allowance and earnestly solicit reconsideration for the same.

Respectfully submitted,

BY 

Robert M. Barrett (30,142)
Cust. No. 29174

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